

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CRIMINAL CASE NO. 1:21-cr-00008-MR-WCM-1**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>BRANDY MICHELLE FOHMANN,</b>	)	
	)	
<b>Defendant.</b>	)	
<hr/>	)	

**THIS MATTER** is before the Court on the Defendant’s “Pro Se Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3582(c)(2).” [Doc. 28].

By the present motion, the Defendant asks seeks relief under both Parts A and B of Amendment 821 to the U.S. Sentencing Guidelines. [Doc. 28]. Pursuant to 18 U.S.C. § 3582(c)(2), the Court may modify a term of imprisonment that was based on a sentencing range that has subsequently been lowered by the Sentencing Commission, “if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2).

The Defendant is not entitled to relief under either part of Amendment 821. Part A of Amendment 821, effective November 1, 2023, amended U.S.S.G. § 4A1.1 to provide for the addition of one status point for

defendants with seven or more criminal history points who committed the offense of conviction while under a criminal justice sentence. U.S.S.G. § 4A1.1(e) (2023). Here, however, the Defendant was not assessed any status points under § 4A1.1. As such, Part A is inapplicable to her.

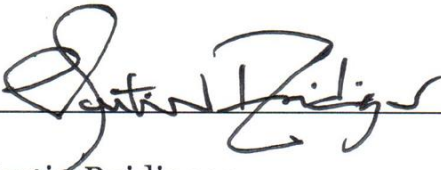
The Defendant also is not eligible for relief under Part B. That provision amended the offense-level calculation for offenders who did not receive any criminal history points. U.S.S.G. § 4C1.1 (2023). At the time of sentencing, the Defendant was assessed two criminal history points. As such, Part B of Amendment 821 is inapplicable to her as well.

For all of these reasons, the Defendant's motion is denied.

**IT IS, THEREFORE, ORDERED** that the Defendant's "Pro Se Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)" [Doc. 28] is **DENIED**.

**IT IS SO ORDERED.**

Signed: April 22, 2024

  
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Martin Reidinger  
Chief United States District Judge

